STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. Y-02/09-123
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals the decision by the Department for Children and Families, Economic Services Division, Health Access Eligibility Unit (HEAU) terminating his Vermont Health Access Program (VHAP) benefits and not retroactively reinstating his coverage following the petitioner's failure to pay his premium in a timely manner. The issue is whether the regulations allow retroactive reinstatement of benefits.

The facts in the case are not in dispute. The following findings are based on the representations of the parties in telephone conferences held On March 6 and April 3, 2009 and on related documents filed by the Department.

FINDINGS OF FACT

1. In December 2008 the petitioner was enrolled in VHAP, subject to the payment of a monthly premium based on his income. The Department sent the petitioner monthly bills, which the petitioner paid by check.

2. On November 25, 2008 the Department sent the petitioner a bill for $33.00 which was noticed to be due by December 15, 2008. The bill was an increase from the previous month's premium due to changes in the petitioner's income.

3. On December 16, 2008 HEAU received a check from the petitioner for $7.00 (which was the amount of the premium he had paid in November).

4. On December 19, 2008 the Department sent the petitioner a notice closing his VHAP effective December 31, 2008 due to nonpayment of the premium. The notice included specific instructions for payment of the premium and included the following advice: "If we receive and process you payment before coverage ends, you coverage will continue."

5. When HEAU had not received the petitioner's premium by December 31, 2008 it terminated the petitioner's VHAP coverage effective that date.

6. On January 22, 2009 HEAU received a premium payment from the petitioner. Based on this payment HEAU notified the petitioner that he would be eligible for VHAP beginning February 1, 2009.

7. In early January 2009 the petitioner received medical services from his local hospital. He maintains that

the hospital did not check the status of his VHAP coverage, and did not inform him that he was not covered before it rendered its services. The petitioner is now seeking reimbursement for those services (although it is not clear whether the hospital has actually billed him).[1]

8. The petitioner does not dispute that he did not pay his correct premium in a timely manner and that he received the various notices from HEAU regarding the amount and due date of his premium and his loss of coverage.

ORDER

The Department's decisions terminating the petitioner's VHAP coverage as of January 1, 2009 and not granting the petitioner retroactive coverage for January 2009 is affirmed.

REASONS

Based on a legislative directive (Act 66 of 2003) to enact cost-savings measures designed to sustain the public health care assistance programs, the Department has adopted regulations establishing monthly "premiums" to be paid prospectively by VHAP. The regulations require that coverage

[1] The Department has informed the hospital that if it failed to verify the petitioner's VHAP status prior to rendering its services, it is in violation of its Medicaid agreement if it bills the petitioner for those services. Thus, the case (at least in terms of the petitioner's financial liability) may well be moot.

shall be terminated if an individual does not pay the required program fee by the billing deadline. See W.A.M. § 4001.91. In this case there is no dispute that the petitioner did not pay his required program fee by the December 31, 2008 deadline and that he was duly and timely notified by the Department of the closure of his benefits as of that date.

There is also no dispute that the Department reinstated his coverage effective the first day of the month (February 1) following the date it received his premium payment (January 22). This was fully in accord with the program regulations at § 4002.3. Unfortunately, there are no provisions in the regulations for retroactive reinstatement of coverage upon receipt of a late premium payment. Inasmuch as the Department's decisions in this matter were in accord with the pertinent regulations the Board is bound to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule 1000.4D.

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